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C O N F I D E N T I A L HARARE 002014

SIPDIS

NSC FOR SENIOR AFRICA DIRECTOR J. FRAZER
LONDON FOR C. GURNEY
PARIS FOR C. NEARY
NAIROBI FOR T. PFLAUMER

E.O. 12958: DECL: 09/03/2012

TAGS: [PGOV](#) [PHUM](#) [PREL](#) [ASEC](#) [ZI](#)

SUBJECT: RULE OF LAW UNDER ATTACK - MAGISTRATES ASSAULTED

Classified By: Political Officer Audu Besmer for reasons 1.5 b/d

Summary:

[1](#)1. (C) A magistrate was severally beaten on August 16, another stabbed on August 28, both assaults allegedly motivated by the magistrates' rulings in favor of defendants who were MDC members. Justice Minister Chinamasa has refused a request by the Chief magistrate to condemn the attacks and ensure magistrates' protection. Now that the Supreme Court and High Court are firmly in Zanu-PF hands, it appears that the ruling party is moving to ensure that the lower-level magistrates also toe the line. End Summary.

Mob Beats Magistrate in Chipinge

[1](#)2. (U) On the morning of August 16 a mob of 150 - 200 Zanu-PF militants and war veterans dragged a presiding magistrate, Walter Chikwanha, out of his courtroom, beat him severely at the government facility where the court is located, then paraded him around Chipinge forcing him to chant Zanu-PF slogans. This occurred after Chikwanha granted bail to 5 MDC officials accused of burning two DDF (District Development Fund) government tractors in Chipinge. The mob also smashed the car windscreen of Langton Mhungu, the defendants' lawyer. The mob then moved on to severely beat the owners and staff of the Chipinge Diesel Station where one of the suspects works, accusing them of supplying the fuel and training the suspect to burn the tractors. At the end of the owners' ordeal, mob leaders told them the diesel station was being repossessed "for the people," and that they were to leave the area immediately. Chikwanha is reportedly convalescing in a safe house in Mutare. Mhungu fled with his family to Masvingo. The owners of Chipinge Diesel fled to Harare.

[1](#)3. (C) According to a well-connected lawyer, Donald Mushayamunda, (please protect) the Police Officer-in-Charge (OIC) in Chipinge, on hearing of the judge's ruling, suggested to Zanu-PF militants to "demonstrate". In the days after the demonstration turned violent, the Chief Magistrate reportedly inquired of the OIC whether he had issued a permit for the demonstration, whether, consistent with the law, the OIC had assigned officers to keep the peace, or whether the demonstration was unauthorized and had there been any arrests? The OIC declined to answer.

Magistrate Stabbed in Zaka

[1](#)4. (C) On August 28 the Zaka district resident magistrate, Godfrey Gwaka, was stabbed while in the company of another court official. The court official identified one of the two assailants, Naison Chikomo, whom Police have in custody. Police are searching for the other, Philip Kusarakesekwa. Gwaka, stabbed in the chest and back, was taken to Musiso Mission Hospital and released August 29. Gwaka had heard several cases involving political violence and 5 deaths in Zaka during and after the March 2002 election period. Energy Bara, who reported both stories in the independent Daily News, suggested to us that Gwaka might have been attacked for his remarks and judgments in those cases. The Legal Resources Foundation, a local civil rights NGO, condemned the Zaka and Chipinge attacks, both of which they view as reprisals for the respective magistrates' decisions. We have heard that civil servants within the Ministry of Justice suspect the Zaka attack was politically motivated.

[1](#)5. (C) According to Mushayamunda, the Chief Magistrate met with Justice Minister Chinamasa on August 28 to request the Minister issue a statement condemning the Chipinge attack, and to request protection for magistrates. Chinamasa reportedly refused on both counts, saying the matter was political, and the GOZ has information that Chikwanha was a member of the MDC.

Comment:

[1](#)6. (C) After packing the Supreme Court and High Court with sympathetic judges during the past two years, it appears the ruling party is increasingly unhappy with the independence exercised by the lower-level magistrates. Magistrates have

issued a number of recent rulings that were not favorable to Zanu-PF, and they are consequently now coming under increasing pressure to toe the party line, or risk political retribution. Chinamasa's statement suggests the GOZ supports these activities as a shot across the bow to magistrates considering ruling against Zanu-PF causes. End Comment.
SULLIVAN